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Supplementary Report

drawn up on behalf of the Committee on Social Affairs and Employment

on the state of progress within the Council of Ministers with regard to the amendments to Regulations Nos. 1408/71 and 574/72 on the application of social security schemes to employed persons and their families moving within the Community

Rapporteur: Mr W. ALBERS

By letters of 23 April 1975 and 13 January 1978 the Council consulted the European Parliament on proposals to amend Regulations Nos 1408/71 and 574/72 respectively on the application of social security schemes to employed persons and their families moving within the Community.

At the plenary sittings of 28 April 1975 and 18 January 1978 these proposals were referred to the Committee on Social Affairs and Employment.

The European Parliament delivered its opinions on these proposals in its resolutions of 14 October 1975 (OJ No. C 257/75) and 10 May 1978 (OJ No. C 131/78) respectively.

The Committee on Social Affairs and Employment considered this matter again at its meeting of 1 April 1980 and on that occasion appointed Mr ALBERS rapporteur for a supplementary report.

It considered the supplementary report at its meeting of 24 April 1980 and adopted it unanimously.

Present: Mr Van der Gun, chairman, Mr Peters, vice-chairman, Mr Albers, rapporteur; Mr Boyes, Mrs Baduel Glorioso, Miss Brookes, Mr Calvez, Mrs Cassanmagnago Cerretti, Ms Clwyd, Mrs Dekker, Mr Ghergo (deputizing for Mr Barbagli), Mrs Kellett-Bowman (deputizing for Mr Spicer), Mrs Maij-Weggen (deputizing for Mr Estgen), Mr McCartin, Mr Van Minnen, Mrs T. Nielsen, Mr Oehler, Mr Prag, Mrs Salisch, Mr Spencer, Mr Verhaegen, Mr Veronesi (deputizing for Mr Ceravolo) and Mr Wawrzik (deputizing for Mr Nordlohne).

C o n t e n t s

	<u>Page</u>
A. MOTION FOR A RESOLUTION	5
B. EXPLANATORY STATEMENT	7
 <u>Annex</u> :	
Information note drawn up by the Commission on Regulations 1408/71 and 574/72	8

The Committee on Social Affairs and Employment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement :

MOTION FOR A RESOLUTION

on the state of progress within the Council of Ministers with regard to the amendments to Regulations Nos 1408/71 and 574/72 on the application of social security schemes to employed persons and their families moving within the Community

The European Parliament,

- whereas the Council of Social Affairs Ministers is to hold its six-monthly meeting at the beginning of June,
 - having regard to the European Commission's proposals in this field in 1975 and 1978, and to the opinions of the European Parliament on this subject¹,
 - having regard to paragraph 10 of its resolution of 11 May 1979² in which it strongly depløres 'the serious delays which have occurred and requests expressly that the Council of Social Affairs Ministers adopt at its very next meeting the Commission's proposals, which have already received some time ago the European Parliament's favourable opinion, relating to the standardization of the system of paying family benefits to workers the members of whose families reside in a Member State other than the country of employment and to social security for self-employed persons and their families',
 - having regard to the supplementary report by the Committee on Social Affairs and Employment (Doc. 1-140/80),
1. Reiterates the view that it expressed in 1975 that migrant workers have a right to the child allowances paid in the country of employment even when their children continue to reside in the country of origin;
 2. Continues also to hold the view it expressed in 1978 that these social security schemes for migrant workers should be extended to cover the self-employed and unemployed persons referred to in the Commission's proposals, and regrets that the question of child allowances is delaying adoption of this proposal;

¹ OJ No. C 96/75, p. 4; OJ No. C 246/78, p. 2; OJ No. C 257/75, p. 10 and OJ No. C 131/78, p. 45, respectively

² OJ No. C 140/79, p. 181

3. Refers once again to the Council's own resolution of 9 February 1976 (OJ No C.34/76, p. 2) on an action programme for migrant workers and members of their families in which the desire is expressed to promote equal treatment for migrant workers;
4. Urges the Council therefore at its next meeting on social affairs, to remove once and for all the unjustifiable discrimination which exists between the categories of migrant workers concerned by adopting the proposals placed before it in 1975 and 1978;
5. Instructs its President to forward this resolution to the President of the Council and President of the Commission of the European Communities.

EXPLANATORY STATEMENT

In his oral report to the Committee on Social Affairs and Employment on 17 December 1979 on the outcome of the meeting of the Council of Ministers of Social Affairs and Employment of 22 November 1979, Mr VREDELING, Vice-President of the European Commission, mentioned a reservation of principle with regard to the Commission's proposal amending Regulations (EEC) Nos. 1408/71 and 574/72,¹ aimed at extending the scope of these regulations to self-employed and unemployed persons.

The Federal Republic delegation has linked its reservation with regard to the abovementioned amending proposal to another amending proposal which the Commission submitted in 1975² and is still awaiting consideration in the Council of Ministers. This delegation is advocating - and has since confirmed this in an official memorandum - that the existing system for the payment of child allowances should be amended along the lines of the exceptional arrangements still applicable to France.

In 1975 the European Commission proposed that this exceptional arrangement should be abolished. According to this arrangement the child allowance is paid on the basis of the so-called principle of country of residence, which means that the amount of the allowance is determined by the legislation of the country in which the children live. The European Commission considers that from the social point of view the most equitable arrangement would be for the child allowance to be determined by the legislation of the country in which the worker is employed, i.e., in accordance with the principle of country of employment. The European Commission is therefore maintaining its 1975 proposal.

¹ Proposal: OJ No C 246/78, p.2, resolution of the European Parliament of 10.5.1978; OJ No C 131/78, p.45

² Proposal: OJ No C 96/75, p.4., resolution of the European Parliament of 14.10.1975; OJ No C 257, p.10

Information note

drawn up by the Commission on

Regulations 1408/71 and 574/72: grant of family allowances to workers whose families do not reside in the worker's country of employment.

I. The provisions of Regulation No. 1408/71

Regulation No. 1408/71 (Article 73) lays down two different rules according to whether the worker is employed in France or in another Member State:

- where the worker is employed in France, the members of his family receive the family allowances provided for by the legislation of the country in which they reside and these are then reimbursed by France to the institution of the country of residence which paid them;
- where the worker is employed in another Member State he receives family benefits from the country of employment for the members of his family residing in another Member State¹.

This two-tier arrangement is the result of a compromise adopted in 1971 by the Council after lengthy deliberations. Its originators intended it to be no more than provisional. Article 98 of the regulation, adopted at the same time, provides that the Council shall, on a proposal from the Commission, re-examine the whole problem in order to reach a uniform solution for all Member States.

II. The Commission's proposal

Pursuant to Article 98 of Regulation No. 1408/71, the Commission forwarded its proposal to the Council on 10 April 1975 (OJ No. C 96 of 29 April 1975, p.4).

In response to amendments requested by the European Parliament² and the Economic and Social Committee³ an amended proposal was forwarded to the Council on 15 January 1976.

¹ 'Family allowances' are taken to mean regular allowances granted exclusively on the basis of the number and, in certain cases, the age of children. The term 'family benefits' is a generic term which covers family allowances plus other allowances intended to meet expenditure in respect of dependants such as special birth allowances, allowances for handicapped children, single-wage allowances etc., granted under family benefit schemes.

² Opinion of 14 October 1975 - OJ No. C 257, 10 November 1975.

³ Opinion of 24 September 1975 - OJ No. C 286, 15 December 1975.

The solution recommended by the Commission in its proposal consists of safeguarding the right of all workers in the Community to family benefits in the country of employment, whatever the Member State in which the worker is employed and whatever the Member State in which the members of his family reside. This means therefore that the rules which are already applied in eight Member States should also apply to workers employed in France.

The Commission considered that the payment of benefits by the country to whose legislation the worker is subject is the only way of guaranteeing equality of treatment between workers.

If the arrangement whereby benefits are paid by the country of residence of the family instead of by the country of employment were generalized, this would mean, for the majority of beneficiaries, a return to the situation which existed before Regulation 1408/71 came into force on 1 October 1972 and would entail a substantial reduction in benefits for a considerable number of families.

Such an arrangement could not therefore be approved by the Commission. It would moreover be contrary to the Council Resolution of 21 January 1974 on the social action programme which referred to the need to 'improve the conditions of free movement within the Community of workers from Member States, including social security'.

III. The position adopted by the Council

The Commission's proposal has appeared on the Council's agenda on two occasions (18 December 1975 and 9 December 1976).

Six delegations were in favour of the Commission's proposal, i.e. the generalization of the arrangement whereby benefits are paid by the worker's country of employment¹.

Three delegations were opposed to this proposal and recommended adoption of the arrangement involving payment of the benefits of the country of residence of the children, the costs to be met by the country of employment.

Given that Article 51 of the EEC Treaty requires unanimous approval, it was not possible for the Council to adopt the Commission's proposal.

IV. The position of the Member States

In the meantime Germany has made a proposal to the effect that the system involving the payment of the family benefits of the country of residence should be introduced for all Member States, while safeguarding acquired rights. Three Member States, Belgium, France and Luxembourg, support this proposal. Ireland, Italy and the Netherlands are opposed to it. The other Member States have not yet announced their position.

¹ This solution was, moreover, also approved by the European Parliament and the Economic and Social Committee

V. Financial implications of the two systems

There is a substantial difference between the level of family benefits in Italy and Ireland (countries of emigration) and the level of benefits in the Member States in which migrant workers are employed, i.e. principally Germany, Belgium, France and the United Kingdom (see Table I).

The adoption of the country-of-residence arrangement would lead to a substantial loss of income for these workers¹.

The country-of-employment arrangement was adopted in 1971 with a recital to the effect that it was desirable to improve the arrangement under Regulation No. 3. To adopt the country-of-residence arrangement would mean returning to the system which prevailed under Regulation No. 3 and which the Community legislator rightly sought to improve in 1971.

The number of children concerned can be estimated at 150,000 (see Table II).

¹ This is demonstrated by the following examples:

1. An Italian worker employed in Germany and whose family resides in Italy currently receives, for three children, Bfrs 8,644 per month.

If the country-of-residence system were adopted, he would get Bfrs 2,110 per month, a difference of Bfrs 6,534 per month, or Bfrs 78,408 per year.

2. An Irish worker employed in the United Kingdom and whose family resides in Ireland currently receives, for three children, Bfrs 6,858 per month.

If the country of residence system were adopted, he would get Bfrs 1,815, a difference of Bfrs 5,043 per month or Bfrs 60,516 per year.

TABLE I

Rates of monthly family allowances in force
at 1 July 1979

	<u>Belgium</u>	<u>Germany</u>	<u>Denmark</u>	<u>France</u>
	Bfrs	Bfrs	Bfrs	Bfrs
<u>Basic amount</u>				
Number of children				
1	1,465	786	874	-
2	3,789	2,357	1,749	1,485
3	6,970	5,501	2,623	4,133
4	10,215	8,644	3,497	6,523
5	13,483	11,787	4,371	8,783
6	16,751	14,931	5,246	11,042
7	20,019	18,074	6,120	13,304
8	23,287	21,217	6,994	15,564
9	26,555	24,360	7,868	17,824
10	29,823	27,504	8,743	20,085
<u>Age Supplement</u>				
6 to 10 years:	274		1. Family allowance increased by 1,314	10 to 15 years: 581
10 to 14 years:	483		(a) children with one parent	over 15:
over 14:	782		(b) orphans	1,033
			(c) both parents on retirement pension	
			Supplementary family allowance 1,004 for person having guardianship of children under (a) and (b)	
			2. Plus: special allowances for	(1) except for the elder child of families with less than 3 children
			(a) orphans: 3,508	
			(b) illegitimate, fatherless or motherless children, children with one or both parents on retirement pension: 2,116	
			(c) children with one or both parents on minimum invalidity pension but not entitled to allowance under (b) 1,058	single-parent allowance: 3,229 per child

Conversion rate calculated in accordance
with Article 107(amended) of Reg. 574/72
- Period of reference: July 1979

TABEL I

<u>Ireland</u>	<u>Italy</u>	<u>Luxembourg</u>	<u>Netherlands</u>	<u>United Kingdom</u>
Bfrs	Bfrs	Bfrs	Bfrs	Bfrs
208	352	1,213	1,180 ¹	1,143
536	703	2,730	3,130	2,286
863	1,055	5,856	5,094	3,429
1,190	1,406	8,981	7,515	4,573
1,518	1,758	12,106	9,936	5,716
1,846	2,110	15,231	12,605	6,859
2,173	2,461	18,356	15,275	8,002
2,501	2,812	21,482	18,216	9,145
2,828	3,165	24,607	21,157	10,288
3,155	3,516	27,732	24,098	11,431
		6 to 11 years:	Twice the child allowance is payable, provided they are maintained principally by the insured person, in respect of:	
		121	(a) a child under the age of 16 raised outside his home by reason of apprenticeship, study or invalidity	
		Over 11:	(b) a child aged between 18 and 27 engaged upon study or apprenticeship or disabled	Supplementary amount paid for the first child or the only child of a single parent
		394	(c) young people living at home and aged between 18 and 27	572
			Three times the allowance is payable in respect of students under (b) if maintained exclusively by the insured person outside his home	
			¹ 590 for the first child, born after 1.1.1979, up to the age of 3	

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Family allowances paid to workers whose children
do not reside in the country of employment
Number of children: 1978

Table II

Country of employment	Country of residence of children									Total
	B	Dk	Ger.	Fr.	Irl.	It	Lux	NL	UK	
Belgium	.	.	.	.	.	.	.	.	.	.
Denmark	.	.	.	.	.	.	.	.	.	.
Germany ^a	960	34	-	11,098	16	79,973	30	12,098	292	104,501
France ^b	3,897	.	391	.	.	980	32	11	29	5,340
Ireland	2	.	.	.	.	.	.	.	179	181
Italy	.	.	.	.	.	.	.	.	.	.
Luxembourg	4,809	1	1,736	3,435	.	494	.	3	6	10,484
Netherlands	.	.	.	.	.	.	.	.	.	.
United Kingdom	135	4	483 ^c	616	3,008	239	28	330	.	4,843

(a) 1979 figures

(b) Number of families

(c) Excluding personnel of British armed forces

. Figures not available

